

January 7, 2004

Notice to nonresident U.S. armed forces members: Change to 2003 Form ND-1

Purpose of notice

On December 19, 2003, President Bush signed into law the Servicemembers Civil Relief Act (H.R. 100; Public Law No. 108-189). This federal legislation updated and expanded what has been known as the Soldiers' and Sailors' Civil Relief Act of 1940.

One of the new provisions in the Act provides that a state may not use the active duty military compensation of a nonresident servicemember to calculate the tax on other income of the nonresident servicemember or the servicemember's nonresident spouse that is sourced in the state if it causes an increase in the tax. For North Dakota individual income tax purposes, this provision in the Act affects the calculation of the tax on North Dakota Form ND-1 (Main Method). ***Note: The Act does not affect the calculation of the tax on Form ND-2, the Optional Method.***

Adjustment to 2003 Form ND-1

Because the 2003 North Dakota Form ND-1 was already finalized and printed before the federal legislation was passed and signed into law, it does not take into account the change in the Act for nonresident servicemembers or their nonresident spouses. For purposes of completing the 2003 Form ND-1 only, the following special instructions apply:

- Write "Servicemembers Civil Relief Act" at the top of the 2003 Form ND-1.
- Enter active duty military compensation on line 5 of the 2003 Form ND-1 and write "nonresident military pay" on the dashed line to the left of the amount.

Note: This line is normally reserved for interest from U.S. obligations. Therefore, if the individual also has interest from U.S. obligations, add the active duty military compensation to the interest from U.S. obligations and enter the total on line 5.

- If Schedule SF (Schedule for joint filers with different states of residence) is required to be completed, also enter the active duty military compensation on Schedule SF, Part 2, line 5, Column C.

Have questions or need assistance?

If you have any questions about this notice or need assistance with preparing your 2003 North Dakota individual income tax return, contact the Individual Income Tax Section, North Dakota Office of State Tax Commissioner in any of the following ways:



E-mail us at **individualtax@state.nd.us**.



Call (701) 328-1032. If speech or hearing impaired, call 1-800-366-6888 (Relay North Dakota) and ask for 701-328-1032.



Write to Individual Income Tax Section, Office of State Tax Commissioner, 600 East Boulevard Avenue, Dept. 127, Bismarck, ND 58505-0599.

SF**Schedule for joint filers with different states of residence****2003**

Attach to Form ND-1 or ND-2

► **Important**—This schedule is to be used only by married persons who file a joint federal income tax return but are required to file separate North Dakota returns because they have different states of residence. See **Who must complete** in the instructions for more information.

Part 1 Calculation of spouses' separate federal taxable incomes

- Complete Column A first by entering the amounts from your joint federal return.
- Then complete Columns B and C to show the amounts belonging to each spouse.
- See separate instructions sheet.

Column A

Total from federal return

Column B

Full-year resident spouse

Column C

Full-year nonresident or part-year resident spouse

A. Enter the name of each spouse in the appropriate column—see instructions **A** _____

B. Social security number of spouse **B** _____

Income

- | | | | |
|---|----------|-------|-------|
| 1. Wages, salaries, and tips (from line 7 of Form 1040 or 1040A, or line 1 of Form 1040EZ) | 1 | _____ | _____ |
| 2. Interest and dividend income (add lines 8a and 9a of Form 1040 or 1040A, or amount from line 2 of Form 1040EZ) | 2 | _____ | _____ |
| 3. Business income or loss (from line 12 of Form 1040) | 3 | _____ | _____ |
| 4. Ordinary and capital gains and losses (add lines 13a and 14 of Form 1040, or amount from line 10a of Form 1040A) | 4 | _____ | _____ |
| 5. IRAs, pensions, and annuities (add lines 15b and 16b of Form 1040, or lines 11b and 12b of Form 1040A) | 5 | _____ | _____ |
| 6. Income from rents, royalties, partnerships, S corporations, estates, and trusts (from line 17 of Form 1040) | 6 | _____ | _____ |
| 7. Farm income or loss (from line 18 of Form 1040) | 7 | _____ | _____ |
| 8. Other income (add lines 10, 11, 19, 20b, and 21 of Form 1040, or lines 13 and 14b of Form 1040A, or amount from line 3 of Form 1040EZ) | 8 | _____ | _____ |
| 9. Total income. Add lines 1 through 8 | 9 | _____ | _____ |

Adjustments to income

- | | | | |
|--|-----------|--------------|--------------|
| 10. Education expenses (add lines 23, 25, and 26 of Form 1040, or lines 16, 18, and 19 of Form 1040A) | 10 | _____ | _____ |
| 11. Moving expenses (from line 27 of Form 1040) | 11 | _____ | _____ |
| 12. Self-employed deductions (add lines 28, 29, and 30 of Form 1040) | 12 | _____ | _____ |
| 13. IRA deduction (from line 24 of Form 1040 or line 17 of Form 1040A) | 13 | _____ | _____ |
| 14. Other deductions (add lines 31 and 32a of Form 1040) | 14 | _____ | _____ |
| 15. Total adjustments. Add lines 10 through 14 | 15 | _____ | _____ |
| 16. Federal adjusted gross income. Subtract line 15 from line 9 | 16 | _____ | _____ |
| 17. Divide each spouse's separate federal adjusted gross income by the total federal adjusted gross income on line 16. Round to the nearest two decimal places | 17 | _____ . ____ | _____ . ____ |
| 18. Standard deduction or itemized deductions, whichever applies | 18 | _____ | _____ |
| 19. Exemptions | 19 | _____ | _____ |
| 20. Federal taxable income. Subtract lines 18 and 19 from line 16 | 20 | _____ | _____ |

► If one or both spouses are using Form ND-1, complete Part 2 on page 2.

► If one or both spouses are using Form ND-2, complete line 21 below. Otherwise, skip line 21.

Line 21—Form ND-2 users only (see instructions)

- | | | | |
|---|------------|-------|----------------|
| 21. a. Federal income tax for Schedule 2 (Form ND-2) only | 21a | _____ | Not applicable |
| b. Federal income tax for Schedule 3 (Form ND-2) only | 21b | _____ | |

► After completing Schedule SF, see **How to complete the North Dakota return** in the instructions.

Part 2 Calculation of tax for Form ND-1 filers only

- Complete this part only if Form ND-1 is used by one or both spouses.
- If completing this part, complete lines 1 through 13 of BOTH columns even if only one spouse is going to use Form ND-1.
- See separate instructions sheet.

| | Column B Full-year resident spouse | Column C Full-year nonresident or part-year resident spouse |
|---|--|---|
| 1. Federal taxable income from Part 1, line 20, Columns B and C | 1 | |
| Additions | | |
| 2. Lump sum distribution from Federal Form 4972 | 2 | |
| 3. Loss from pass-through entity subject to North Dakota's financial institution tax | 3 | |
| 4. Add lines 1, 2 and 3 | 4 | |
| Subtractions | | |
| 5. Interest from U.S. obligations | 5 | |
| 6. Net long-term capital gain exclusion | 6 | |
| 7. Exempt income of a Native American | 7 | |
| 8. Benefits received from the U.S. Railroad Retirement Board | 8 | |
| 9. Income from pass-through entity subject to North Dakota's financial institution tax | 9 | |
| 10. Renaissance zone income exemption | 10 | |
| 11. New and expanding business income exemption | 11 | |
| 12. National Guard and Reserve member exclusion for federal active duty outside North Dakota | 12 | |
| 13. Total subtractions. Add lines 5 through 12 | 13 | |
| 14. North Dakota taxable income. Subtract line 13 from line 4 | 14 | |
| Tax calculation | | |
| 15. Add the amounts on line 14, Columns B and C (NS) | 15 | |
| 16. Go to the Tax Table on page 18 of the 2003 Form ND-1 instruction booklet. In the Married filing jointly column, find the tax on the amount on line 15 | 16 | |
| ➤ Complete lines 17 and 18 for each spouse using Form ND-1. | | |
| 17. Divide the spouse's separate North Dakota taxable income on line 14 by the amount on line 15. Round to the nearest two decimal places | 17 | |
| 18. Form ND-1 tax. Multiply line 16 by the decimal number on line 17 | 18 | |

➤ After completing Schedule SF, see **How to complete the North Dakota return** in the instructions to this schedule.

Who must complete

Complete Schedule SF *only if* you meet all three of the following conditions:

1. You are married.
2. You and your spouse are filing a joint federal income tax return for the 2003 tax year.
3. You and your spouse had different states of residence (one of which is North Dakota) for the 2003 tax year. You and your spouse had different states of residence if you fall into one of the following categories:
 - One spouse is a full-year resident of North Dakota and the other spouse is a full-year nonresident.
 - One spouse is a full-year resident of North Dakota and the other spouse is a part-year resident of North Dakota.
 - One spouse is a part-year resident of North Dakota and the other spouse is a full-year nonresident.

If all three of the above conditions apply, you must file a separate North Dakota return using the "Married filing separate return" filing status. However, if you are a full-year nonresident of North Dakota who has no gross income from North Dakota sources, you are not required to file a North Dakota return. If only one spouse is required to file, attach a statement to the return of the spouse who is filing to explain this.

In addition to Schedule SF, the full-year nonresident spouse (if required to file) or the part-year resident spouse must complete:

- Schedule ND-1NR, if using Form ND-1; or
- Schedule 3, if using Form ND-2.

Complete Schedule SF first, and then complete Schedule ND-1NR or Schedule 3, whichever applies.

Purpose of schedule

The purpose of Schedule SF is to determine the amounts that each spouse must use to complete a separate North Dakota return. Complete all of the columns on the schedule even if one of the spouses is a full-year nonresident who is not required to file a North Dakota return.

Federal return line references—Disregard the federal income tax return line references shown on the North Dakota return (Form ND-1 or ND-2) and in its instructions. Instead, the separate federal information for each spouse as determined on Schedule SF must be used to fill in the federal amounts asked for on the separate North Dakota returns. After completing Schedule SF, see **How to complete the North Dakota return** on page 2 of these instructions for how to transfer the information from Schedule SF to Form ND-1 or Form ND-2.

How to complete Schedule SF**Step 1**

Complete Part 1, lines A through 20, to determine the separate federal taxable income for each spouse.

Step 2

If both you and your spouse are going to use Form ND-1, complete the remainder of Schedule SF as follows:

- Skip lines 21a and 21b of Part 1.
- Complete Part 2, lines 1 through 18.

If both you and your spouse are going to use Form ND-2 (Optional Method), complete line 21. Do not complete Part 2.

If you are going to use Form ND-1 and your spouse is going to use Form ND-2 (or vice versa), complete both Part 1 and Part 2.

Step 3

See **How to complete the North Dakota return** on page 2 of these instructions for how to transfer the information from Schedule SF to Form ND-1 or Form ND-2. After transferring the information, complete the remainder of the North Dakota return using the regular instructions.

Specific line instructions for Part 1**Lines A and B**

Enter your names and social security numbers in the appropriate columns. Column B is for the full-year resident spouse, and Column C is for the full-year nonresident or part-year resident spouse.

Exception: *If you fall into the category in which one spouse is a part-year resident and the other spouse is a full-year nonresident, use Column B for the part-year resident spouse and write "Part-year resident" in the gray box at the top of the column. Use Column C for the full-year nonresident spouse.*

Lines 1 through 16

Enter the amounts from your joint federal return on the appropriate lines in Column A. Enter the portion of the amount in Column A belonging to each spouse in Columns B and C. Amounts from jointly owned property must be divided equally between the spouses.

Line 18

Standard deduction—If you used the standard deduction on your federal return, enter in Column A the amount from your federal income tax return as follows:

- If you used Form 1040, enter the amount from line 37.
- If you used Form 1040A, enter the amount from line 24.
- If you used Form 1040EZ, and the "No" box on line 5 was checked, enter \$9,500. Or, if the "Yes" box on line 5 was checked, enter

the amount from line E of the Worksheet For Dependents (on the back of Form 1040EZ).

- If you used the Federal TeleFile system to file your federal return, enter the amount from line J (the "Standard Deduction" box) of your TeleFile Tax Record.

Enter in Columns B and C the portion of the amount in Column A that would have been allowed to each spouse had separate federal returns been filed. Attach a supporting statement.

Itemized deductions—If you filed Federal Form 1040 and claimed itemized deductions instead of the standard deduction, enter the amount from Schedule A (Form 1040), line 28, in Column A. Multiply this amount by the spouse's ratio on line 17 and enter the result in the appropriate column.

Line 19

Enter in Column A the amount from your federal income tax return as follows:

- If you used Federal Form 1040, enter the amount from line 39.
- If you used Federal Form 1040A, enter the amount from line 26.
- If you used Federal Form 1040EZ, and the "No" box on line 5 was checked, enter \$6,100. Or, if the "Yes" box on line 5 was checked, enter the amount from line F of the Worksheet For Dependents (on the back of Form 1040EZ).
- If you used the Federal TeleFile system, enter the amount from line J (the "Exemption Amount" box).

If the exemption amount reported on the federal return was not reduced by the federal exemption phaseout rule, determine the amount to enter in Columns B and C as follows:

1. Each spouse must claim his or her own personal exemption of \$3,050 (if not claimed as a dependent by another taxpayer).
2. Exemptions for dependents, if any, must be allocated between the spouses as follows: Multiply the number of dependents by \$3,050. Multiply this result by the spouse's ratio on line 17 and round to the nearest whole exemption amount of \$3,050.

Example: *John and Mary have three dependent children. They would multiply \$3,050 by 3 to get \$9,150. If John's ratio (on line 17) is .75 (75%), he would multiply \$9,150 by .75 to get \$6,863. Rounding this to the nearest whole exemption he would claim \$6,100, and Mary would claim \$3,050.*

If the exemption amount reported on the federal return was reduced by the federal exemption phaseout rule, reduce the amounts determined above by the percentage reduction from the federal Deduction for Exemptions Worksheet that you completed for federal purposes.

Line 21a**Full-year resident using Form ND-2**

Enter in Column A the amount from your federal income tax return as follows:

- If you used Form 1040EZ, enter the amount from line 10 less line 8.
- If you used Form 1040A, enter the amount from line 36 less the alternative minimum tax less lines 41 and 42.
- If you used the Federal TeleFile system to file your federal return, enter the amount from line K (the "Tax" box) less line L (the "Earned Income Credit" box) of your TeleFile Tax Record.
- If you used Form 1040, complete the worksheet (for Form 37, Schedule 2, line 26) on page 10 of the Form ND-2 instruction booklet.

Multiply the amount in Column A by the ratio on line 17 of Column B, and enter the result on line 21a of Column B.

Line 21b**Full-year nonresident or part-year resident using Form ND-2**

Enter in Column A the amount from your federal income tax return as follows:

- If you used Form 1040EZ, enter the amount from line 10 less line 8.
- If you used Form 1040A, enter the amount from line 36 less the alternative minimum tax less lines 41 and 42.
- If you used the Federal TeleFile system to file your federal return, enter the amount from line K (the "Tax" box) less line L (the "Earned Income Credit" box) of your TeleFile Tax Record.
- If you used Form 1040, complete the worksheet (for Form 37, Schedule 3, page 1, line 11) on page 12 of the Form ND-2 instruction booklet.

Multiply the amount in Column A by the ratio on line 17 of Column C, and enter the result on line 21b of Column C.

Exception: If you fall into the category in which one spouse is a part-year resident and the other spouse is a full-year nonresident, use Column B for the part-year resident spouse and use Column C for the full-year nonresident spouse. In this case, multiply the amount in Column A by the spouse's ratio on line 17, and enter the result on line 21b in the appropriate column.

Specific line instructions for Part 2

Complete this part if Form ND-1 is used by one or both spouses. Complete lines 1 through 14 of **both** columns even if only one spouse is going to use Form ND-1. Complete lines 17 and 18 for each spouse using Form ND-1.

Lines 2 and 3

See the instructions to Form ND-1, lines 2 and 3, on page 9 of the Form ND-1 instruction booklet for these adjustments. If applicable, enter the adjustment amount in the appropriate column.

Lines 5 through 12

See the instructions to Form ND-1, lines 5 through 12, on page 9 the Form ND-1 instruction booklet for these adjustments. If applicable, enter the adjustment amount in the appropriate column.

How to complete the North Dakota return

This table shows how to transfer the information from Schedule SF to the North Dakota return—either Form ND-1 or Form ND-2. After transferring the information, complete the remainder of the return using the regular instructions.

Full-year resident spouse

- If using Form ND-1, transfer the amounts from Schedule SF to Form ND-1 as follows—

Enter the amount**from Schedule SF:**

| | |
|--|--------------------|
| Part 1, line 16, Column B | Line E |
| Part 2, lines 1 through 14, Column B | Lines 1 through 14 |
| Part 2, line 18, Column B | Line 15 |

On Form ND-1:

- If using Form ND-2 (Optional Method), transfer the amounts from Schedule SF to Form ND-2, Schedule 2, as follows—

Enter the amount**from Schedule SF:**

| | |
|----------------------------------|---------|
| Part 1, line 16, Column B | Line A |
| Part 1, line 20, Column B | Line 1 |
| Part 1, line 21a, Column B | Line 25 |

**On Form ND-2,
Schedule 2:**

Note: The ratio on Schedule SF, Part 1, line 17, Column B, must be used to apportion the amounts for purposes of Form ND-2, Schedule 2, lines 3 and 20.

Full-year nonresident spouse or part-year resident spouse*

- If using Form ND-1, transfer the amounts from Schedule SF to Form ND-1 and Schedule ND-1NR as follows—

Enter the amount**from Schedule SF:**

| | |
|--|--------------------|
| Part 1, line 16, Column C | Line E |
| Part 2, lines 1 through 14, Column C | Lines 1 through 14 |

On Form ND-1:**Enter the amount****from Schedule SF:**

| | |
|---|-------------------------------|
| Part 1, lines 1 through 8, Column C | Lines 1 through 8, Column A |
| Part 1, lines 10 through 14, Column C | Lines 10 through 14, Column A |
| Part 1, line 16, Column C | Line 17 |
| Part 2, line 18, Column C | Line 21 |

**On Form ND-1,
Schedule ND-1NR:**

- If using Form ND-2 (Optional Method), transfer the amounts from Schedule SF to Form ND-2, Schedule 3 as follows—

Enter the amount**from Schedule SF:**

| | |
|--|---|
| Part 1, line 21b, Column C | Part 1, line 11 |
| Part 1, line 18, Column C | Part 1, line 17 or line 22, whichever applies |
| Part 1, line 19, Column C | Part 1, line 24 |
| Part 1, lines 1 through 15, Column C | Part 2, lines 1 through 15, Column A |

**On Form ND-2,
Schedule 3:**

Note: The ratio on Schedule SF, Part 1, line 17, Column C, must be used to apportion the amounts for purposes of Form ND-2, Schedule 3, Part 1, lines 18 and 20.

* If you fall into the category in which one spouse is a part-year resident and the other spouse is a full-year nonresident, the part-year resident must use Column B of Schedule SF, and the full-year nonresident must use Column C of Schedule SF. When transferring amounts from Schedule SF to either Form ND-1 or Form ND-2, the reference to "Column C" in the Schedule SF line references applies to the full-year nonresident spouse. For the part-year resident, substitute "Column B" for "Column C" in the Schedule SF line references in this table.